

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:07-CR-00036-F-1

UNITED STATES OF AMERICA,)
)
)
v.) O R D E R
)
DARIUS LAMONT GALLOWAY,)
Defendant.)

Before the court is Darius Lamont Galloway's Motion for Return of Property [DE-192], filed pursuant to Rule 41(e) of the Federal Rules of Criminal Procedure. The Government has filed a Response [DE-196], and this matter is now ripe for disposition.

Galloway is seeking return of a Honda Accord LX, which was purportedly seized from him as part of a criminal investigation.¹ The record reveals that Galloway's Honda Accord LX was seized on February 3, 2006, and he did not bring the instant claim until April 16, 2013.

A postconviction motion for return of property seized as part of a criminal investigation brought under Fed.R.Crim.P. 41(e) is an equitable civil action. *See United States v. Garcia*, 65 F.3d 17, 20-21 (4th Cir. 1995). The action is subject to the general six-year statute of limitations for suits brought against the United States. *See* 28 U.S.C. § 2401(a). Galloway's cause of action accrued on February 3, 2006, the day his property was seized. In light of the fact that Galloway's claim was not filed until more than seven years after the seizure, his claim is barred by the

¹The Government concedes that the Vehicle Storage and Inventory Report attached to its Response states that the Honda Accord LX was held pursuant to a "Federal Seizure." [DE-196.] Even so, the Government argues that the vehicle was seized by the Columbus County Sheriff's Department, and the vehicle was not seized by the federal government. *Id.* The Government also asserts that the vehicle was not needed or used as evidence in Galloway's criminal trial, and the Government did not seek forfeiture of the vehicle. *Id.*

statute of limitations. *See* 28 U.S.C. § 2401(a). For this reason, Galloway's Motion for Return of Property [DE-192] is DISMISSED.

SO ORDERED.

This, the 17th day of May, 2013.

James C. Fox
JAMES C. FOX
Senior United States District Judge